

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
BETTY JEAN DRAKE,) CASE NO. 07-22843 jpk
) Chapter 13
Debtor.)

ORDER FOR HEARING REGARDING DISMISSAL OF CASE

At a preliminary pre-trial conference held telephonically on May 14, 2008 with respect to the objection to confirmation of the debtor's plan filed on March 14, 2008, Deputy Attorney General Brian Salwowski reported that the Indiana Department of Revenue has no record of the filing by the debtor of her Indiana income tax returns for the years 2004, 2005 and 2006. The Chapter 13 Trustee Paul Chael reported that his files contain unsigned copies of each of those three returns, including the W-2s with respect to the debtor's wage income for each of those periods.

11 U.S.C. § 1308 requires the filing of all three of these income tax returns, and given the fact that the case was filed on October 18, 2007 and the § 341 meeting was originally set for November 19, 2007, the outside extension of time which may be granted by the Chapter 13 Trustee pursuant to 11 U.S.C. § 1308(b)(1)(A) has already expired. Thus, if those returns have not been filed, the case is subject to dismissal pursuant to 11 U.S.C. § 1307(e). The Court may raise this issue on its own initiative, pursuant to 11 U.S.C. § 105(a).

IT IS ORDERED that a hearing will be held on **June 23, 2008, at 1:00 P.M.** to determine (a) the debtor's compliance with the tax return filing requirements of 11 U.S.C. § 1308, and (b) whether the case should be dismissed for non-compliance with that provision. Not later than ten days prior to the scheduled hearing, the debtor shall file a certification, under the penalties of perjury, stating the date upon which each of the three tax returns was either delivered or mailed to the Indiana Department of Revenue and the address to which each of those returns

was either delivered or mailed. Not later than ten days in advance of the date of the scheduled hearing, the Indiana Department of Revenue shall file an affidavit stating whether or not its records establish receipt of each of the three tax returns. Counsel for the Indiana Department of Revenue may attend the hearing by telephonic hookup made by the Court in open court, if a request for so doing is made to the Court's Judicial Assistant Susan Harrison in advance of the hearing.

Dated at Hammond, Indiana on June 6, 2008.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:

Debtor, Attorney for Debtor
Trustee, US Trustee
DAG Brian Salwowski
All Creditors
All Parties-in-Interest